STAFF REPORT TO THE COMMISSION
99-0614
March 3, 2000

CAPSULE SUMMARY

In 1997, the Illinois Legislature passed House Bill 362. The Governor signed House Bill 362 on December 16, 1997 and it became Public Act 90-561. Public Act 90-561 revises the Public Utilities Act ("Act") to restructure the Illinois electric utility industry and change the way it is regulated.

Section 16-115 requires an alternative retail electric supplier ("ARES") to obtain a certificate from the Illinois Commerce Commission ("Commission") before serving any retail customer or other user located in Illinois. Section 16-115(f) gives the Commission authority to promulgate rules applicable to ARES certification. Rules applicable to ARES certification will be identified in the Administrative Code as Part 451. Thus far, the Commission initiated two rulemakings pursuant to Section 16-115(f).

Docket No. 98-0544, initiated on July 22, 1998, addresses the specific language of Section 16-115(f) which says the Commission must adopt rules on or before May 1, 1999, applicable to the expedited certification of ARES that seek to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more. These rules must provide for expedited and streamlined procedures, and must include specific criteria applicable to an ARES' technical, financial and managerial resources and abilities to provide service. On December 16, 1998, the Commission ordered that the Notice of Proposed Rules of 83 Ill. Adm. Code 451 be submitted to the Secretary of State for First Notice publication in the Illinois Register.

Docket No. 98-0649, addressed the language of Section 16-115 which gives the Commission general authority to promulgate rules for the non-expedited certification of ARES that seek to serve nonresidential retail customers. On January 13, 1999, the Commission entered a First Notice Order authorizing the submittal of the Notice of Proposed Rules for 83 Ill. Adm. Code 451: Subparts C, D and E to the Secretary of State pursuant to Section 5-40 of the Illinois Administrative Procedure Act. On June 30, 1999, the Commission entered a Second Notice Order allowing the submittal of the Proposed Rules to the Joint Committee on Administrative Rules for review pursuant to Section 5-40(c) of the Illinois Administrative Procedure Act.

After the Second Notice Order was entered but before the Final Notice Order was entered and the Rule became effective, Staff gained experience in assessing ARES applications by communicating with prospective ARES applicants and by reviewing a number of draft applications. This experience has revealed that, notwithstanding the best efforts of the parties to the rulemaking, some of the financial standards in proposed Subparts C and D are less than optimal for ensuring that pro

spective ARES have sufficient financial resources. Staff filed a Motion to withdraw the Proposed Rules and re-examine them with the intent to revise the financial standards contained in the Proposed Rule. Staff Motion was denied by the Commission and the Proposed Rule became effective on December 1, 1999.

Docket No. 98-0614

On November 17, 1999, the Illinois Commerce Commission ("Commission") entered an Order that initiated a rulemaking proceeding designed to consider amendments to 83 Ill. Adm. Code 451, "Certification of Alternative Retail Electric Suppliers." 83 Ill. Adm. Code 451 implements Section 16-115 of the Public Utilities Act ("Act") by establishing procedures for the certification of alternative retail electric suppliers ("ARES"). The ARES certification rules consist of Subparts A, B and F, as adopted by the Commission effective May 1, 1999, and Subparts C, D and E, effective December 1, 1999. Notice of this proceeding was sent to all certified alternative retail electric suppliers and electric utilities under the jurisdiction of the Commission.

The Prehearing Conference in this matter was held on December 16, 1999. At that time, the Hearing Examiner determined that the rulemaking proceeding would be conducted without evidentiary hearings. This would be accomplished by publishing rules promulgated by the Staff of the Commission ("Staff") in the *Illinois Register* for purposes of First Notice and allowing all interested parties to file Comments and Reply Comments. The Comments and Replies would then be relied upon by the Commission in the preparation and publication of a Second Notice Order. Commonwealth Edison Company objected to this procedure and moved to proceed with evidentiary hearings. The motion was denied by the Hearing Examiner.

Staff conducted Workshops in conjunction with Status Hearings on February 4 and March 1, 2000. At the status hearing on March 1, 2000, the Hearing Examiner instructed Staff to file a report, a proposed First Notice Order and a copy of the proposed rule with the Chief Clerk's Office.

OVERVIEW

There are two principles that Staff followed in developing the Proposed Rules: (1) the rules should be comprehensive, and (2) the rules should be comprehensible. By reading the Rules, an Applicant should be aware of the Commission's requirements and should be able to complete an application by following the rules step-by-step.

Staff's Proposed Rules are attached as Schedule A in legislative style. Staff has divided Part 451 into 6 Subparts: (1) Subpart A: General Provisions; (2) Subpart B: Expedited Procedures for Applicants Seeking to Serve Only Nonresidential Customers with Maximum Electrical Demands of One Megawatt or More (both Subpart A and B were the subject of Docket No. 98-0544); (3) Subpart C: Procedures for Applicants Seeking to Serve Nonresidential Retail Customers with Annual Electrical Consumption

Greater than 15,000 kWh; (4) Subpart D: Procedures for Applicants Seeking to Serve All Retail Customers Excluding Residential Customers; (5) Subpart E: Procedures for Applicants Seeking Certification to Serve Only Themselves or Affiliated Customers (6) Subpart F: Financial Qualifications for the Provision of Single-Billing Service, Subpart H: Procedures for Reporting Continuing Compliance with Certification Requirements.

Section 451.10 Definitions

Under the current rule, several applicants for ARES certification submitted unconditional guarantees to demonstrate the sufficiency of their financial resources. In the course of its review of those applications, Staff discovered that terms and conditions of those "unconditional guarantees" varied widely. Staff believes that a standard definition of an unconditional guarantee that clarifies its basic elements would ensure that such guarantees represent a meaningful commitment of a qualified affiliate to provide financial resources to the ARES when necessary. Staff based its proposal on Standard & Poor's definition of an unconditional guarantee. Standard & Poor's is a widely known credit rating company.

In addition, definitions for "accountant's report," "certified," "financial statements," and "ratings agency," which currently appear in Subparts B, C, and D, have been consolidated in Section 451.10. In the past, Staff has received queries about what types of bonds are required in the rule. To clarify that matter, definitions have been added for "payment bond," "license bond," "material," and "permit bond." Finally, the formulas for four financial ratios have been added that are incorporated into a new proposed financial criterion.

Section 451.50 License or Permit Bond Requirements

Section 451.50 consolidates the bonding requirements currently located in Sections 451.110(a), 451.220(a), and 451.320(a). Consolidating the bonding requirements eliminates repetitive language in those sections. In addition, Section 451.50 details the procedures that ARES must follow to ensure that they remain in compliance with this Section. Specifically, Sections 451.50(b) and (c) would ensure that an ARES always has valid bonds in place with a cumulative value equal to at least the amount required under the rule.

Sections 451.110 Financial Qualifications under Subpart B

The financial qualifications described in Sections 451.110, 451.220 and 451.320 are identical in most respects; therefore, subsections will be described jointly with differences described as necessary.

Staff had three objectives in its revision to Sections 451.110, 451.220 and 451.320: (1) clarify existing financial criteria; (2) simplify some of the criteria and make them more understandable; and (3) expand the number of "streamlined" criteria to encompass additional types of financial resources that came to light in the course of reviewing ARES applications.

Subsection (a)(1) of Sections 451.110, 451.220, and 451.320: Credit Ratings

In Section 451.110(a)(1), the eligible commercial paper rating was reduced from A-2/P-2/D-2/F-2 (hereafter "second tier ratings") to A-3/P-3/D-3/F-3 (hereafter "third tier ratings"). The latter group represents the lowest "investment grade" commercial paper rating. (The former group represents less risky commercial paper.) An "investment grade" rating means that timely payment of principal and interest is expected, although not certain. A "non-investment grade" rating means that timely payment of principal and interest is speculative. The revised commercial paper ratings eligibility level conforms to the new financial ratio criterion discussed later.

Staff recommends keeping the minimum commercial paper rating under Sections 451.220(a) and 451.320(a) at the second tier ratings level. Although the third tier ratings are "investment grade," such commercial paper is unmarketable when the available supply of credit is tight. Under such financial market conditions, an ARES with a third tier commercial paper rating may have difficulty in securing the funds necessary to purchase electric energy. Staff believes that only the largest customers (i.e., those with maximum electric loads of 1 MW or greater) have the financial sophistication to understand the risk it may be assuming should it choose an electric supplier with a third tier commercial paper rating.

Subsection (a)(2) of Sections 451.110, 451.220, and 451.320: Access to Short-Term Credit: Borrowing Agreement

Subsection (a)(2) would place a minimum on the amount of funds that must be available to an applicant under a borrowing agreement. Under the current rule, no amount is specified for the borrowing agreement. Therefore, an applicant could set up a borrowing agreement with an affiliate under which the applicant could borrow only a nominal amount for the sole purpose of obtaining its certificate to operate as an ARES. Under the proposed rule, the amount of funds available under the borrowing agreement must equal the greater of a fixed dollar amount or a fixed percentage of revenue from the applicant's last fiscal year.

Fixed minimum dollar values for the borrowing agreement were added to make this criterion available to recently established companies that have not completed their first year of operations at the time of application. The fixed dollar values equal $500,000 for Subpart B applicants, $750,000 for Subpart C applicants, and $1,000,000 for Subpart D applicants. A borrowing agreement for $500,000 would support one month of working capital for a company with annual sales of $6,000,000. A borrowing

agreement for $1,000,000 would support two months of working capital for a company with annual sales of $6,000,000. (At a price of $30/MWh, $6,000,000 in revenue represents approximately 30 MW of load.)

The percentage of revenue used was set equal to that established for the line of credit/revolving credit agreement criterion. (Sections 451.110(b)(4), 451.220(b)(4) and 451.320(b)(4) of the current rule). That is, 5% of total revenue for Subpart B applicants, 7.5% of total revenue for Subpart C applicants, and 10% of total revenue for Subpart D applicants. Total revenues was used as the basis for this calculation since funds obtained under a borrowing agreement could be used to support other parts of a company's business, such as gas marketing. Therefore, to ensure that an adequate supply of funds is available for an applicant's electric business, the funds available under a borrowing agreement must be sufficient to finance all of an applicant's businesses. Staff has also added a requirement that the borrowing agreement remain valid for at least one year to coincide with the proposed annual compliance filing.

Subsection (a)(3) of Sections 451.110, 451.220, and 451.320: Guarantees, Letters of Credit, and Bonds for the Purchase of Electric Energy and Fuel Required to Produce Electric Energy

The unconditional guarantee criterion has been substantially revised to establish a minimum value for that guarantee and explicitly define the types of transactions a qualifying unconditional guarantee must cover. These changes are intended to ensure that the guarantee covers a meaningful financial obligation of the applicant. Under the current rule, some applicants have provided guarantees in which it was unclear which obligations of the applicant were being guaranteed. Some guarantees covered obligations that did not exist. This Subsection identifies obligations arising from power and fuel purchases as eligible transactions since these transactions are among the most important that an ARES must incur in order to serve its retail electric customers.[1] An ARES' transmission transactions are excluded since those are the subject of utility tariffs.

In addition, a minimum dollar value for the financial agreement was set using the same fixed amounts and percentages established in the current rule for the line of credit/revolving credit agreement. However, under this subsection, that percentage would be applied to electric revenues rather than total revenues since a guarantee can be established for specific transactions (e.g., purchases of electric energy for resale).

Finally, payment bonds and letters of credit were added as eligible financial instruments. Payment bonds and letters of credit are similar in nature to an unconditional guarantee in that a guarantor agrees to meet the obligations of the obligor (e.g., ARES) should the obligor default on its obligation. Payment bonds and letters of credit are already qualifying financial instruments for meeting the

1Transactions with retail electric customers are the subject of Subsection (a)(4).

requirements to provide single billing service under the current rule (Subpart F). Staff has also added a requirement that these financial agreements remain valid for at least one year to coincide with the proposed annual compliance filing.

The objective of this provision is not to ensure that an ARES' suppliers are paid the amounts that the ARES owes them. Rather, the objective is to ensure that an ARES can obtain the power that its customers require. Applicants would not be required to have other entities guarantee their obligations in order to receive a certificate of service authority. Rather, this subsection would permit applicants to demonstrate that they have sufficient financial resources to operate as an ARES on the basis of the financial strength of another entity **if** that entity formally commits to provide the applicant financial resources should the applicant need them to meet the electric energy requirements of its Illinois retail customers.

Subsection (a)(4) of Sections 451.110, 451.220, and 451.320: Guarantees for the Reimbursement of Illinois Retail Customers in the Event an ARES Defaults on its Obligation to Provide Electric Energy.

The rule would set the minimum dollar value of the guarantee to equal the product of 1080 hours times an estimate of the peak number of MWs scheduled during the next twelve months times the average of the 45 highest daily peak summer prices of electric energy. The 1080 hours was chosen as an estimate of the maximum number of days that an electricity customer might have to remain on his utility's default service tariff. The terms of the utility default service tariffs vary slightly with some customers able to remain on default service for as long as 90 days. However, the minimum number of days that a customer remains on default service can be as many as 45 days. This estimate is derived from the DASR process which requires that a customer give its utility 10 days notice prior to switching energy providers, which can only occur on the meter-read date. If the next meter-read date is less than 10 business days (i.e., 14 calendar days), the customer would have to remain on default service for up to an additional 31 days until the following meter-read date. Thus, a customer might be required to remain on default service for at least 45 days, or 1080 hours.

As a measure of electric demand, the formula uses the peak amount of MWs. An ARES would most likely have the greatest difficulty in meeting the energy requirements of its retail customers during the time of year when electrical demand is the greatest. Similarly, when electrical demand is the greatest, the market price for electricity is likely to be the highest; therefore, the formula sets the estimated price of electricity to an average of the 45 highest daily prices during the year.

Although the formula is straightforward, there are difficulties in its implementation. First, since an applicant would not have an Illinois retail electric customer base, one must rely on an estimate of the peak number of MWs that the

ARES will schedule. [2] Second, the embryonic stage of development of competition in the electric supply market has made it difficult to determine the single best source to estimate electricity prices for the current year and all future years at this time. For example, there is currently no published index of electricity prices for the Illinois market. Consequently, rather than name an index of electricity prices which might be supplanted by superior measures as the market develops, the proposed rule would have the Commission annually choose a published price index for the purposes of this subsection. The proposed rule would have the Commission choose that index based on the proximity to Illinois of the location of the market that index represents.[3]

Subsection (a)(5) of Sections 451.110, 451.220, and 451.320: Access to Short-Term Credit: Line of Credit or Revolving Credit Agreement

As with the borrowing agreement, a fixed, minimum dollar value was added to make this criterion available to recently established companies that have not completed their first year of operations at the time of application. The fixed minimum dollar values are equal to those proposed for Subsections (a)(1) through (a)(3): the fixed minimum dollar values equal $500,000 for Subpart B applicants, $750,000 for Subpart C applicants, and $1,000,000 for Subpart D applicants. Staff has also added a requirement that the borrowing agreement remain valid for at least one year to coincide with the proposed annual compliance filing.

The current rule has two benchmarks for determining the adequacy of an applicant's line of credit/revolving credit agreement for serving customers with maximum electric loads of 1 MW or greater. (83 Ill. Adm. Code 451.110(b)(4)) The first benchmark is revenues, which the proposed rule retains. The second benchmark is gross utility plant, which the proposed rule eliminates.

The gross utility plant benchmark was designed to provide a streamlined means for applicants to become certified that have not been in operation long enough to have certified financial statements reflecting a full year of operations. However, with the establishment of a fixed minimum dollar value for a line of credit or revolving credit agreement, the gross utility plant benchmark became unnecessary. No entity has applied under the gross utility plant benchmark of the line of credit/revolving credit agreement test.

[2] For ongoing compliance, Staff recommends estimating the maximum number of MWs to be scheduled during the next 12 months with the highest amount of MW scheduled during the previous 12 months. (See Section 451.740(c)) If the ARES has been operating in Illinois for less than 12 months at the time of its compliance filing, an estimate of the highest amount of MW scheduled for the next 12 months would be required.

[3] Currently, that electricity index representing a market nearest to Illinois is the Dow Jones Cinergy Electricity Index, which is published in *The Wall Street Journal*.

Subsection (a)(6) of Sections 451.110, 451.220, and 451.320: Financial Ratio Test

Subsection (a)(6) represents an additional "streamlined" means for assessing an applicant's financial resources that do not have credit ratings. Under this subsection, an applicant that earns 12 points based on the values it achieves under four financial ratios would be deemed to have sufficient resources to perform its duties as an ARES.

The concept of a financial ratio test was derived from 50 Ill. Adm. Code Ch. II Section 7100.70 which sets forth Illinois Industrial Commission requirements for an employer to become a self-insurer of liabilities under the Workers' Compensation Act. However, the financial ratios and point values are based on Standard & Poor's financial ratios for industrial commercial paper ratings and utility group financial targets.

Under Section 451.110(a)(6), 3 points would be earned if the applicant had ratios consistent with an A-3 commercial paper rating. Under Section 451.320(a)(6), the 3 point level was set to coincide with financial ratios consistent with an A-2 commercial paper rating. Under Section 451.220(a)(6), the 3 point level was set to be consistent with ratios halfway between the corresponding Subpart B and Subpart D levels. The commercial paper ratings targeted for each Subpart were chosen for the reasons described above with regard to Subsection (a)(1). Each point level was set to approximate a change in financial strength indicative of a half-step between credit ratings.

Section 451.110(b), Section 451.220(c) and Section 451.320(c): General Liability Insurance

In determining the level of technical, financial and managerial resources which the applicant must demonstrate, Section 16-115(d)(1) of the Illinois Public Utilities Act requires the Commission to consider "whether the applicant seeks to provide electric power and energy using property, plant and equipment which it owns, controls or operates." Since the improper operation of property, plant and equipment that provides electric energy can damage the property of other entities, Staff believes that such an applicant should carry adequate liability insurance.

Sections 451.220(b) and 451.320(b): Requirements for Applicants that Do Not Meet Any of the Streamlined Financial Criteria

Section 451.220(b) of the proposed rule would replace Sections 451.220(c) and (d) under the current rule. Section 451.320(b) of the proposed rule would replace Sections 451.320(c) and (d) of the current rule. Under the current rule, Sections 451.220(c), 451.220(d), 451.320(c), and 451.320(d) set forth the filing requirements for applicants that are unable to meet any of the streamlined criteria described in Sections 451.220(b) and 451.320(b). Sections 451.220(c) and 451.320(c) of the current rule are for applicants that will take an ownership interest in electric energy for sale to Illinois retail customers. Sections 451.220(d) and 451.320(d) of the current rule are for applicants that will not take an ownership interest in electric energy for sale to Illinois

retail customers. Sections 451.220(c) and 451.320(c) require that an applicant maintain a line of credit or revolving credit agreement to become an ARES; however, those sections do not set a minimum size for that source of short-term credit. Rather, the applicant must explain why its line of credit or revolving credit agreement is sufficiently large to operate as an ARES. In contrast, although Sections 451.220(d) and 451.320(d) of the current rule require that an applicant describe its financial resources and explain why they are sufficient to operate as an ARES, they do not require an applicant to have a specific type of financial resource or a specific amount.

Staff believes that limiting ARES that will take title to electric energy for sale to Illinois retail customers to lines of credit or revolving credit agreements is unnecessarily restrictive. There are many types of financial resources available to an ARES. Therefore, Staff recommends eliminating the line of credit or revolving credit agreement requirement in Sections 451.220(c) and 451.320(c). When that requirement is eliminated, the requirements in Subsection (c) would be identical to Subsection (d). Consequently, Staff's proposed rule combines the requirements of Subsections (c) and (d) into a single Subsection (b).

Section 451.140 Qualifications of Agents and Contractors

Staff has added a requirement that the applicant must disclose the term (length) of any contract where an agent or contractor is used to satisfy any of the managerial or technical qualifications. This has been added to ensure that an applicant does not use a short term contract for the purpose of meeting the managerial and technical requirements and then have the contract expire.

Section 451.250 Qualifications of Agents and Contractors

Staff has added a requirement that the applicant must disclose the term (length) of any contract where an agent or contractor is used to satisfy any of the managerial or technical qualifications. This has been added to ensure that an applicant does not use a short term contract for the purpose of meeting the managerial and technical requirements and then have the contract expire.

Section 451.350 Qualifications of Agents and Contractors

Staff has added a requirement that the applicant must disclose the term (length) of any contract where an agent or contractor is used to satisfy any of the managerial or technical qualifications. This has been added to ensure that an applicant does not use a short term contract for the purpose of meeting the managerial and technical requirements and then have the contract expire.

Section 451.430 Qualifications of Agents and Contractors

Staff has added a requirement that the applicant must disclose the term (length) of any contract where an agent or contractor is used to satisfy any of the managerial or technical qualifications. This has been added to ensure that an applicant does not use a short term contract for the purpose of meeting the managerial and technical requirements and then have the contract expire.

Section 451.500

Under the current rule, the applicability of Subpart F is limited to applicants "seeking expedited certification to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more." That limitation was unintentional and provides no means for other applicants to become certified to provide single billing service. Therefore, Staff proposes to eliminate the quoted phrase from Section 451.500.

Section 451.510

In the first paragraph of this Section, Staff's proposed rule clarifies that an applicant must obtain authorization to provide single billing services. Staff's proposed rule clarifies that an applicant may apply to provide single billing services when the applicant files its application for its certificate of service authority to operate as an ARES or at any time thereafter.

Section 451.510(a)

Section 451.510(a) was changed: (1) to clarify that the applicant must provide a copy of the bonding agreement and bonds to the Commission with its application to provide single billing service; and (2) to require that the bonds be valid for a period of not less than one year, which is the same period that the current rule requires for the letter of credit in Section 451.510(b). The requirement that the applicant post the bond with the utility within ten days of being certified to provide single billing service was eliminated. Staff believes that the requirement to post the bond with the utility within a certain number of days of certification to provide single billing service is better addressed in a utility's single billing tariff since an ARES' compliance with that requirement cannot be verified until after the ARES received that certification. The quarterly filing requirement was also eliminated. Compliance filings are the subject of proposed Subpart H.

Section 451.510(b)

Section 451.510(b) was changed to clarify that the applicant must provide a copy of the letter of credit and the credit ratings of the financial institution providing that letter of credit to the Commission with its application to provide single billing service. The

requirement that the applicant renew and replace the letter of credit every three months was eliminated since compliance filings would be the subject of proposed Subpart H under Staff's proposed rule.

Section 451.510(c)

Section 451.510(c) was changed to clarify that the applicant must provide a copy of its credit ratings reports to the Commission with its application to provide single billing service. The requirement that the applicant provide a new credit ratings report every three months was eliminated since compliance filings would be the subject of proposed Subpart H under Staff's proposed rule.

Section 451.510(d)

Section 451.510(d) was changed to: (1) clarify that the applicant must provide a copy of the unconditional guarantee and the credit ratings report of its affiliate to the Commission with its application to provide single billing service; and (2) that the unconditional guarantee be valid for a period of not less than one year, which is the same period that the current rule requires for the letter of credit in Section 451.510(b). The requirement that the applicant provide a new credit ratings report of its affiliate every three months was eliminated since compliance filings would be the subject of proposed Subpart H under Staff's proposed rule.

Section 451.740

Under this section, an ARES would be required to provide those documents that are necessary to demonstrate that it maintains sufficient financial resources to provide the services for which it has a certificate of service authority. The Section also details when different types of information are to be filed with the Commission. Between January 1 and January 31 of each year, ARES that rely on credit ratings either of themselves, affiliates, or creditors to demonstrate the sufficiency of their financial resources are to provide updated ratings reports. In addition, an ARES would be required to provide an updated credit ratings report whenever its credit rating or that of its creditor or affiliate is downgraded.

Between January 1 and January 31 of each year, an ARES that has an unconditional guarantee from its affiliate to reimburse customers for the costs of default utility service would be required to provide the maximum amount of MWs scheduled for transmission during the prior year to help determine whether the dollar limit on that guarantee remains adequate. However, if the ARES has been serving customers less than 12 months, it must also provide an estimate of the highest amount of MWs it expects to schedule for the next year. Also during that period, an ARES using a letter of credit or bond as security to provide single billing service must update its estimate of the amount that the ARES expects to be obliged to remit to utilities.

An ARES would be required to file with the Commission new copies of financial agreements only when those agreements are modified or replaced. This will ensure that the Commission has an up to date copy of whatever financial agreements are in effect without requiring an ARES to file duplicates of agreements that remain in effect.

Certified financial statements and the accompanying accountant's report would be required within 120 days of the close of an ARES' fiscal year. However, those documents would only be required from ARES that seek to maintain certification under Subsections (a)(2), (a)(3), (a)(5), or (a)(6) of Sections 451.110, 451.220, or 451.320.

Section 451.750 Managerial Reporting Requirements

Staff has added a requirement that the applicant must annually certify that it continues to maintain the managerial qualifications for the service authority it was granted. This section has been added to ensure that ARES continue to maintain the required qualifications.

Section 451.760 Technical Reporting Requirements

Staff has added a requirement that the applicant must annually certify that it continues to maintain the technical qualifications for the service authority it was granted. This section has been added to ensure that ARES continue to maintain the required qualifications.

Section 451.770 Kilowatt-hour Reporting Requirement

The requirement that each ARES provide to the Commission the total annual kilowatt-hours sold and delivered will enable the Commission to fulfill its responsibility of providing this information to the General Assembly. Section 16-120(b) requires the Commission to submit a report to the General Assembly by April 1 of each year that, among other things, contains the following information:

> the total annual kilowatt-hours delivered and sold to retail customers in the State of Illinois by each electric utility in its own service territory, each electric utility in its service territory, and alternative retail electric suppliers in the preceding calendar year; (emphasis added)

The Commission's first report required by Section 16-120(b) must be filed in 2001. The last year in which the Commission is required by Section 16-120(b) to provide the information described in Section 451.770 is 2006.

Staff also notes that this information described in Section 451.77 is needed by the Commission for another purpose. The Commission must annually determine the pro rata share owed by each electric utility and ARES towards funding of the Energy Efficiency Program, described in Section 6-6 of 65 ILCS 5/8-11-2. A total amount of

$3,000,000 is to be collected annually from each electric utility and ARES. The basis for each electric supplier's share of the annual collection is the number of kilowatt-hours sold annually in State of Illinois. The Commission is responsible for determining the pro rata share owed by each electric utility and each ARES.

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